

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

United States of America,)	CR. NO. 0:10-582 (CMC)
)	
v.)	OPINION and ORDER
)	
Sheldon Bradley,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant's Motion to Modify Term of Imprisonment Pursuant to 18 U.S.C. § 3582(c)(1)(B). ECF No. 404. The Government does not oppose Defendant's motion.

On August 22, 2012, this court notified Defendant that the motion would be construed as a motion for relief under 28 U.S.C. § 2255, and that he should notify the court by September 7, 2012, whether he wished to amend the motion to include other grounds for relief. On September 6, 2012, Defendant mailed a letter to counsel indicating he wished to proceed with the motion as currently filed and "accept the resentencing for the *Dorsey* case." Letter at 1 (ECF No. 407-1).

Accordingly, the court construes the motion for relief filed August 7, 2012, as a motion for relief under 28 U.S.C. § 2255, and **grants** the motion for relief under 28 U.S.C. § 2255. The Judgment Order in CR 3:10-582 filed November 9, 2010, is hereby **vacated**, and this matter is set for resentencing on **Tuesday, October 16, 2012, at 2:00 p.m.** The Federal Public Defender is appointed to represent Defendant for purposes of resentencing.¹

¹Defendant, through counsel, indicates he does not wish to be present at resentencing. However, out of abundance of caution and because the possibility exists for counsel to argue for a sentence below the applicable guideline range based on post-sentencing conduct and other factors, Defendant shall be present for resentencing. *See generally United States v. Lawrence*, 248 F.3d 300 (4th Cir. 2001).

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 12, 2012